

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE

**FIFTY-FIRST LEGISLATIVE DAY
TUESDAY, FEBRUARY 28, 2006**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Burkett, absent and formally excused by the Chair; and Senators Keough, Pearce, and Stegner, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Jessie McLeod, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 27, 2006, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Stegner was recorded present at this order of business.

February 28, 2006

The JUDICIARY AND RULES Committee reports that **S 1420** and **S 1421** have been correctly printed.

DARRINGTON, Chairman

S 1420 was referred to the Resources and Environment Committee.

S 1421 was referred to the Commerce and Human Resources Committee.

February 27, 2006

The JUDICIARY AND RULES Committee reports that **S 1264** and **SCR 123** have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **S 1264** and **SCR 123** and ordered them transmitted to the House for the signature of the Speaker.

February 27, 2006

The STATE AFFAIRS Committee reports out **S 1243** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

BURTENSHAW, Chairman

There being no objection, **S 1243** was referred to the Fourteenth Order of Business, General Calendar.

February 27, 2006

The STATE AFFAIRS Committee reports out **HCR 39**, **H 591**, and **H 592** with the recommendation that they do pass.

BURTENSHAW, Chairman

HCR 39 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

H 591 and **H 592** were filed for second reading.

Senator Keough was recorded present at this order of business.

February 27, 2006

The FINANCE Committee reports out **H 700** and **H 701** with the recommendation that they do pass.

CAMERON, Chairman

H 700 and **H 701** were filed for second reading.

February 27, 2006

The HEALTH AND WELFARE Committee reports out **HCR 31**, **H 564**, and **H 566** with the recommendation that they do pass.

COMPTON, Chairman

HCR 31 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

H 564 and **H 566** were filed for second reading.

February 27, 2006

The JUDICIARY AND RULES Committee reports out **S 1407** and **S 1408** with the recommendation that they do pass.

DARRINGTON, Chairman

S 1407 and **S 1408** were filed for second reading.

February 27, 2006

The JUDICIARY AND RULES Committee reports out **S 1409** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1409** was referred to the Fourteenth Order of Business, General Calendar.

February 27, 2006

The EDUCATION Committee reports out **S 1404** with the recommendation that it do pass.

GOEDDE, Chairman

S 1404 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

February 28, 2006

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Mark Funaiolo of Boise, Idaho, was appointed as a member of the Idaho Commission of Pardons and Parole to serve a term commencing February 22, 2006, and expiring January 1, 2009.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Judiciary and Rules Committee.

The Senate advanced to the Ninth Order of Business.

Messages from the House

February 27, 2006

Mr. President:

I transmit herewith **HCR 40, HCR 41, H 513, H 410, H 492, H 605, H 607, H 608, H 609, H 624, HCR 46, H 708, HJM 13, H 590, H 621, H 475, H 551, H 688, H 584, H 587, HCR 36, HCR 37, and H 636** which have passed the House.

JUKER, Chief Clerk

HCR 40, HCR 41, H 513, H 410, H 492, H 605, H 607, H 608, H 609, H 624, HCR 46, H 708, HJM 13, H 590, H 621, H 475, H 551, H 688, H 584, H 587, HCR 36, HCR 37, and H 636 were filed for first reading.

February 27, 2006

Mr. President:

I return herewith Enrolled **S 1255** which has been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1255** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Pearce was recorded present at this order of business.

The President Pro Tempore announced that **HJM 16** was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Little, seconded by Senator Stennett, **HJM 16** was adopted by voice vote, title was approved, and the memorial ordered returned to the House.

The President Pro Tempore announced the State Affairs Committee report relative to the Gubernatorial appointment of Candice Allphin was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Little, seconded by Senator Malepeai, the Gubernatorial appointment of Candice Allphin as a member of the State Building Authority was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

**S 1422
BY FINANCE COMMITTEE
AN ACT**

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR ADMINISTRATION AND MANAGEMENT FOR FISCAL YEAR 2006; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR PROVIDER PAYMENTS FOR FISCAL YEAR 2006; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; AND DECLARING AN EMERGENCY.

S 1422 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

HCR 40 and **HCR 41**, by Health and Welfare Committee, were introduced, read at length, and referred to the Health and Welfare Committee.

H 513, **H 410**, and **H 492**, by Agricultural Affairs Committee, were introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

H 605, **H 607**, **H 608**, and **H 609**, by Transportation and Defense Committee, were introduced, read the first time at length, and referred to the Transportation Committee.

H 624, by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

HCR 46, by State Affairs Committee, was introduced, read at length, and referred to the State Affairs Committee.

H 708, by State Affairs Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

HJM 13, by Education Committee, was introduced, read at length, and referred to the Education Committee.

H 590, by State Affairs Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 621, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 475, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 551, **H 584**, and **H 587**, by Business Committee, were introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

H 688, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

HCR 36 and **HCR 37**, by Resources and Conservation Committee, were introduced, read at length, and referred to the Resources and Environment Committee.

H 636, by Resources and Conservation Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 575, by Appropriations Committee, was read the second time at length and filed for third reading.

SJR 106, **S 1386**, and **S 1387**, by Resources and Environment Committee, were read the second time at length and filed for third reading.

H 535, **H 536**, and **H 534**, as amended, by Judiciary, Rules, and Administration Committee, were read the second time at length and filed for third reading.

S 1416, by Finance Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1337, having previously been read the third time at length and debate having previously been opened, was before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and reopened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Bunderson, Burtenshaw, Cameron, Darrington, Davis, Fulcher, Geddes, Hill, Jorgenson, Lodge, McGee, McKenzie, Pearce, Richardson, Sweet, Williams. Total - 18.

NAYS--Broadsword, Coiner, Compton, Corder, Gannon, Goedde, Kelly, Keough, Langhorst, Little, Malepeai, Marley, Schroeder, Stegner, Stennett, Werk. Total - 16.

Absent and excused--Burkett. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1337** passed, title was approved, and the bill ordered transmitted to the House.

S 1382, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Schroeder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Joint Rule 18, Senator Cameron challenged the fiscal impact of **S 1382**.

On request by Senator Schroeder, granted by unanimous consent, **S 1382** retained its place on the Third Reading Calendar for Thursday, March 2, 2006.

Senator Burkett was recorded present at this order of business.

S 1379, having previously been read the third time at length and debate having previously been opened, was before the Senate for final consideration. Senator Burkett arose as sponsor of the bill and reopened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President Pro Tempore declared **S 1379** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President Pro Tempore declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **S 1266**, **S 1350**, **S 1390**, **S 1400**, **H 533**, **S 1354**, as amended, **S 1332**, **S 1412**, **S 1395**, **H 601**, and **S 1409**, without recommendation, amended as follows:

SENATE AMENDMENT TO S 1266

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 18, following "aircraft," insert: "Airstrips shall not include landing areas which are or may become eligible to receive federal funding pursuant to the federal airport and airway improvement act of 1982 and subsequent amendments thereto."

SENATE AMENDMENT TO S 1350

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, delete line 43; and on page 2, delete lines 1 through 9 and insert:

"(2) For duplication of recorded documents in excess of one hundred (100) pages or continuous copy requests for duplication of records using compact disc, zip disc, floppy disc or other electronic means, the fee shall be negotiated between the county recorder and the purchaser of records. The fee shall not exceed the costs to the county recorder for the retrieval and duplication of the record. These negotiated fees shall be recommended by the county recorder and approved by the board of county commissioners. Any existing agreements for duplication of records are hereby ratified and approved. Any negotiated fees shall remain in effect until such time as either party requests a review of the fee."; and also on page 2, in line 10, delete "2" and insert: "3"; in line 13, delete "3" and insert: "4"; and in line 16, delete "4" and insert: "5".

CORRECTION TO TITLE

On page 1, delete lines 3 and 4 and insert: "PROVIDE FOR NEGOTIATION AND APPROVAL OF THE FEE FOR DUPLICATION OF RECORDED DOCUMENTS IN EXCESS OF ONE HUNDRED PAGES OR CONTINUOUS COPY REQUESTS USING ELECTRONIC MEANS, TO PROVIDE THAT THE FEE SHALL NOT EXCEED COSTS, TO RATIFY AND APPROVE EXISTING AGREEMENTS, TO PROVIDE FOR REVIEW OF THE FEE, TO CLARIFY".

SENATE AMENDMENT TO S 1390

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 13, delete "elders" and insert: "persons".

SENATE AMENDMENTS TO S 1400

AMENDMENT TO SECTION 4

On page 3 of the printed bill, in line 11, following "judgment," insert: "Such attorney's fees and costs shall be set by the court following the filing of a memorandum of attorney's fees and costs with notice to all parties and hearing."

AMENDMENTS TO THE BILL

On page 3, delete lines 12 through 25; and in line 26, delete "SECTION 6" and insert: "SECTION 5".

CORRECTIONS TO TITLE

On page 1, in line 11, delete "AFTER A TIME CER-"; delete lines 12 through 14 and insert: "; AND AMENDING SECTION 39-6316, IDAHO CODE, TO INCREASE".

SENATE AMENDMENT TO H 533

AMENDMENT TO THE BILL

On page 6 of the printed bill, following line 12, insert: "SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval."

CORRECTIONS TO TITLE

On page 1, in line 3, delete "AND"; and in line 4, following "REFERENCE" insert: "; AND DECLARING AN EMERGENCY".

SENATE AMENDMENT TO S 1354, As Amended

AMENDMENT TO SECTION 1

On page 1 of the engrossed bill, in line 14, following "mail," insert: "Unless an investigation necessitates otherwise, the officer should attempt notification prior to electronic mail service."

SENATE AMENDMENTS TO S 1332**AMENDMENT TO SECTION 2**

On page 3 of the printed bill, in line 41, delete "title 7" and insert: "title 732".

AMENDMENTS TO SECTION 26

On page 15, in line 4, delete "name," and insert: "name; and"; in line 5, delete ", and social security numbers" and insert: "and social security numbers"; and in line 7, delete "social security number," and insert: "social security number".

AMENDMENT TO SECTION 36

On page 18, in line 33, delete "title 7" and insert: "title 732".

AMENDMENT TO SECTION 44

On page 20, in line 42, delete "and social security number" and insert: "and social security number".

AMENDMENT TO SECTION 47

On page 22, in line 34, delete "title 7" and insert: "title 732".

AMENDMENT TO THE BILL

On page 27, following line 21, insert:

"SECTION 63. This act shall be in full force and effect on and after July 1, 2007."

CORRECTIONS TO TITLE

On page 1, in line 4, delete "AND TO REVISE DEFINITIONS" and insert: ", TO REVISE DEFINITIONS AND TO REVISE A CODE REFERENCE"; on page 3, in line 12, delete "AND AMENDING" and insert: "AMENDING"; and also in line 12, following "REDESIGNATE THE SECTION" insert: "; AND PROVIDING AN EFFECTIVE DATE".

SENATE AMENDMENT TO S 1412**AMENDMENT TO SECTION 2**

On page 5 of the printed bill, in line 52, delete "pharmacy" and insert: "pharmacist".

SENATE AMENDMENT TO S 1395**AMENDMENT TO SECTION 1**

On page 1 of the printed bill, in line 32, following ", or" insert: "beginning in the 2005-06 school year and thereafter".

CORRECTION TO TITLE

On page 1, in line 3, following "THAT" insert: "BEGINNING IN THE 2005-06 SCHOOL YEAR AND THEREAFTER".

SENATE AMENDMENT TO H 601**AMENDMENTS TO SECTION 1**

On page 2 of the printed bill, in line 2 following "to the" insert: "administrator of the Idaho division of"; and in line 3, delete "administration" and insert: "services".

SENATE AMENDMENT TO S 1409**AMENDMENT TO SECTION 1**

On page 1 of the printed bill, delete lines 26 through 29 and insert: "restricted by any applicable limits and requirements established by the public employee retirement system of Idaho and by the United States internal revenue service."

The Committee also has **S 1246** and **S 1243** under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Malepeai, the report was adopted by voice vote.

S 1266, as amended, **S 1350**, as amended, **S 1390**, as amended, **S 1400**, as amended, **S 1354**, as amended, as amended, **S 1332**, as amended, **S 1412**, as amended, **S 1395**, as amended, and **S 1409**, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

H 533, as amended in the Senate, and **H 601**, as amended in the Senate, were filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 10 a.m., Wednesday, March 1, 2006.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary